

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Monique West	Team: Team # 5	CCRB Case #: 201304354	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/16/2013 4:30 PM	Location of Incident: [REDACTED]	Precinct: 40	18 Mo. SOL 11/16/2014	EO SOL 11/16/2014	
Date/Time CV Reported Thu, 05/16/2013 4:51 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/21/2013 2:37 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Edgar Clases	17447	936360	040 PCT
2. SGT Steven Degree	02179	943141	040 PCT
3. POM Edward Washa	05942	918459	040 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Belinda Delgado	03469	934740	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Steven Degree	Abuse: Sgt. Steven Degree stopped § 87(2)(b)	[REDACTED]
B.SGT Steven Degree	Discourtesy: Sgt. Steven Degree spoke rudely to § 87(2)(b)	[REDACTED]
C.SGT Steven Degree	Abuse: Sgt. Steven Degree frisked § 87(2)(b)	[REDACTED]
D.SGT Steven Degree	Abuse: Sgt. Steven Degree searched § 87(2)(b)	[REDACTED]
E.POM Edgar Clases	Discourtesy: Officer Edgar Clases spoke rudely to § 87(2)(b)	[REDACTED]
F.POM Edgar Clases	Force: Officer Edgar Clases used physical force against § 87(2)(b)	[REDACTED]
G.SGT Steven Degree	Abuse: Sgt. Steven Degree threatened to damage § 87(2)(b) property.	[REDACTED]
H.SGT Steven Degree	Abuse: Sgt. Steven Degree threatened to arrest § 87(2)(b)	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On May 16, 2013, § 87(2)(b) filed the following complaint with the Internal Affairs Bureau (IAB) via phone, generating IAB log #2013-21163 (encl. C1-2). On May 21, 2013, this complaint was received by the CCRB (encl. C3-4).

On May 16, 2013, at approximately 4:30 p.m., § 87(2)(b) and § 87(2)(b) were at § 87(2)(b) in the Bronx, when they encountered Officer Edgar Clases and Sgt. Steven Degree of the 40th Precinct. The following allegations resulted:

- **Allegation A-Abuse: Sgt. Steven Degree stopped** § 87(2)(b) **on** § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation B-Discourtesy: Sgt. Steven Degree spoke rudely to** § 87(2)(b) **and** § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation C-Abuse: Sgt. Steven Degree frisked** § 87(2)(b) **and** § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation D-Abuse: Sgt. Steven Degree searched** § 87(2)(b) **and** § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation E-Discourtesy: Officer Edgar Clases spoke rudely to** § 87(2)(b)
- **Allegation F-Force: Officer Edgar Clases used physical force against** § 87(2)(b) **and** § 87(2)(g)
§ 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation G-Abuse: Sgt. Steven Degree threatened to damage** § 87(2)(b) **property.**
- **Allegation H: Abuse: Sgt. Steven Degree threatened to arrest** § 87(2)(b) **and** § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- § 87(4-b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(b)
§ 87(2)(b)

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b) is a Hispanic man who stands 5'9" tall and weighs 165 pounds. He has black hair and brown eyes. At the time of the incident, he was § 87(2)(b) years old and § 87(2)(b).

§ 87(2)(b)

§ 87(2)(b)

CCRB Interview

On July 3, 2013, § 87(2)(b) was interviewed on § 87(2)(b)

§ 87(2)(b) This interview was conducted in Spanish by Inv. Harold Rodriguez (encl. C5-6).

On May 16, 2013, at approximately 4:30 p.m., § 87(2)(b) went to his wife § 87(2)(b) store called § 87(2)(b) located at § 87(2)(b) carrying a white bag containing a power drill and a box of screws. An officer, identified by name as Sgt. Degree and described as a 6'2" tall, § 87(2)(b)-year-old black man with a slim build and dark skin, entered behind him. Five other officers entered with him. Sgt. Degree grabbed § 87(2)(b) and § 87(2)(b) asked him what was going on. Sgt. Degree told him, "Shut the fuck up and put your hands in the air."

Sgt. Degree frisked and searched § 87(2)(b) turning his pants' pockets inside out. No drugs were found inside of § 87(2)(b)'s pockets. § 87(2)(b) asked the officers what happened and an officer, identified through the investigation as Officer Edgar Clases and described as a 5'6" tall dark-skinned Hispanic man approximately 38-40 years old said, "Shut the fuck up, bitch" and pushed § 87(2)(b) back. Sgt. Degree asked a third unidentified officer, described as a 6'1" tall white man approximately 38-40 years old, if he was sure that § 87(2)(b) had drugs on him since nothing was found in the search except cigarettes, a lighter and his wallet. The officer responded that he knew § 87(2)(b) hides drugs in his rectum.

Sgt. Degree brought § 87(2)(b) to the outside of the store, between two mannequins and pulled down § 87(2)(b)'s pants. § 87(2)(b) had another pair of pants underneath the outer ones. Sgt. Degree placed his hands inside of the second pair of pants and inside of § 87(2)(b)'s underwear and inserted a finger into § 87(2)(b)'s rectum. Sgt. Degree pulled his finger out roughly, causing pain to § 87(2)(b)'s rectum.

Sgt. Degree apologized to § 87(2)(b) for the inconvenience after not having found anything on § 87(2)(b). § 87(2)(b) did not accept the apology and stated that she was going to file a complaint. Sgt. Degree stated that if § 87(2)(b) filed a complaint that her store might end up "burned to the ground or robbed." Additionally, he stated that if a complaint was filed that he would "add a charge" to § 87(2)(b) that would make sure he "never gets out of jail again." The officers left the scene.

§ 87(2)(b) called an ambulance for § 87(2)(b) due to the pain in his rectum. § 87(2)(b) was taken to § 87(2)(b) Hospital but walked out of the hospital without receiving treatment because the nurses laughed at him.

Attempts to Contact Civilians

On May 23, 2013, § 87(2)(b) was contacted and stated that she was uncomfortable discussing the incident over the phone and would like to give her statement in person. It was explained to her that it was the CCRB's policy to conduct a phone interview first but she refused. She was told

that this would have to be approved by supervision and she would be given a call back. Later that day, an attempt was made to contact § 87(2)(b) to schedule an in-person interview and a voicemail message was left. A first please call letter was mailed to § 87(2)(b). Between May 28, 2013 and June 10, 2013, three attempts were made to contact § 87(2)(b). A voicemail message could only be left on one of those attempts. A final please call letter was sent to § 87(2)(b) and a search of the New York City Department of Correction database was conducted, concluding that she was not incarcerated. On June 18, 2013, a fifth attempt was made to contact § 87(2)(b). A woman answered the phone and then hung up. A return phone call was made and the same woman answered the phone and stated that she could not talk and would call back later. On July 29, 2013, a final attempt to contact § 87(2)(b) was made and a voicemail message was left. As of the date of this report, § 87(2)(b) has not contacted the CCRB and none of the letters sent to her have been returned by the United States Postal Service as undeliverable.

NYPD Statements:

Subject Officer: SGT. STEVEN DEGREE

- *Sgt. Steven Degree is a black man who stands 6'3" tall and weighs 235 pounds. He has black hair and brown eyes. At the time of the incident, he was § 87(2)(b) years old.*
- *On May 16, 2013, Sgt. Degree worked in uniform from 8 a.m. until 4:57 p.m. with Officer Clases. He was assigned as the SNEU sergeant in marked van # § 87(2)(b)*

Memo Book (encl. D1-4)

At 4:30 p.m., Sgt. Degree stopped § 87(2)(b) in front of § 87(2)(b). He was observed engaging in a drug transaction area. He was stopped and was being observed on a SNEU set. He was frisked for officers' safety when he refused to comply with officers' directions.

CCRB Testimony

On November 7, 2013, Sgt. Degree was interviewed at the CCRB (encl. D5-7).

On May 16, 2013, at approximately 4:30 p.m., Sgt. Degree and his team were conducting a SNEU set at § 87(2)(b). Sgt. Degree was parked approximately two blocks away from the SNEU set. The observation officers, who were in plainclothes in an unmarked vehicle, observed a hand-to-hand transaction in front of § 87(2)(b). Officer Washa, one of the plainclothes officers, put the description of both the buyer and the seller over the point to point radio. Sgt. Degree did not recall what descriptions were given. Officer Washa stated that he saw a man give a small object to another man. He did not state whether he saw an exchange of money or anything further.

Sgt. Degree and Officer Clases arrived at the location. Sgt. Degree exited the van and saw § 87(2)(b) who fit the description of the buyer, walk into a woman's boutique store. § 87(2)(b) was by himself. Officer Clases stayed in the vehicle and pursued the seller. Sgt. Degree entered the store and saw § 87(2)(b) in the back of the store. He had been in there for approximately 30 seconds. Sgt. Degree grabbed § 87(2)(b) by his left wrist and asked § 87(2)(b) to come out of the store because he did not want to be in the store by himself and wanted his team to be able to see him in case something went wrong. § 87(2)(b) complied. Sgt. Degree did not say, "Shut the fuck up and put your hands in the air" and did not hear another officer say this.

Officer Clases returned to the location, less than five minutes later, when he did not find the seller and exited the car. Sgt. Degree and § 87(2)(b) were in front of the store. Sgt. Degree noticed a visible bulge, six to seven inches long, in § 87(2)(b)'s left pants' pocket. Sgt. Degree

was not sure what the bulge was when he saw it. Sgt. Degree frisked that pocket and felt a hard object. He was not sure what the object was when he felt it. Sgt. Degree did not frisk § 87(2)(b) anywhere else on his body. He entered the pocket and found a long sharp nail. Sgt. Degree did not enter any other pockets. No drugs were recovered. Sgt. Degree never reached into § 87(2)(b)'s pants, touching his bare skin and did not see another officer do so. Sgt. Degree did not insert a finger into § 87(2)(b)'s rectum and did not see another officer do so. § 87(2)(b)'s bare skin was never exposed. Sgt. Degree stated that he frisked § 87(2)(b) for his safety. When asked what made him fear for his safety, Sgt. Degree clarified that when he asked § 87(2)(b) to leave the store he did not move right away. After approximately 20 seconds, he exited the store.

A female, identified through the investigation as § 87(2)(b) was standing at the entrance of the store. Sgt. Degree did not know whether there was any relationship between § 87(2)(b) and § 87(2)(b) was talking in Spanish and Sgt. Degree could not understand what she was saying. Sgt. Degree did not say to § 87(2)(b) “Shut the fuck up bitch” and did not hear another officer say this. Sgt. Degree did not push § 87(2)(b) or see another officer do so. He had no physical contact or any interaction with § 87(2)(b). Sgt. Degree did not tell § 87(2)(b) that if she filed a complaint her store might end up “burned to the ground or robbed” and did not hear another officer say this. Sgt. Degree did not say that if a complaint was made he would “add a charge” to § 87(2)(b) to make sure he “never got out of jail again” and did not hear another officer say this.

Sgt. Degree explained to § 87(2)(b) why he was stopped. A Stop, Question, and Frisk report was prepared and then Sgt. Degree and Officer Clases left the scene. The Stop, Question, and Frisk report was shown to Sgt. Degree. The report noted that § 87(2)(b) was frisked but not searched. Sgt. Degree stated that he did not report that § 87(2)(b) was searched because he did not consider entering his pocket to be a search. Sgt. Degree defined a frisk as “a pat down for safety and if you feel a hard object you see what it is.” He defined a search as “when you go in and out of every pocket and taking off someone’s shoes and socks.”

§ 87(2)(b) never complained of pain. A photograph of § 87(2)(b) was shown to Sgt. Degree who identified him as the man he interacted with, who fit the description of the buyer in the hand to hand transaction. No other officers were at the scene.

Subject Officer: OFFICER EDGAR CLASES

- *Officer Edgar Clases is a Hispanic man who stands 5’6” tall and weighs 150 pounds. He has brown hair and brown eyes. At the time of the incident, he was § 87(2)(b) years old.*
- *On May 16, 2013, Officer Clases worked in uniform from 12 p.m. until 6:05 p.m. with Sgt. Degree. He was assigned to SNEU in marked vehicle # § 87(2)(b)*

Memo Book

Officer Clases had no memo book entries regarding the incident.

CCRB Testimony

On November 6, 2013, Officer Clases was interviewed at the CCRB (encl. D10-12).

On May 16, 2013, at approximately 4:30 p.m., Officer Clases and his SNEU team were conducting a SNEU operation. The plainclothes observing officers on the team put a description of a man seen on 138th Street over the point to point radio. Officer Clases did not recall how many officers were on his team that day, who the observing officers were, or what description was given.

The plainclothes officers observed the man exchange what they believed to be US currency for a small object. Officer Clases later contradicted himself and stated that as far as he remembers, the observing officers did not give much detail about what they observed and

whether they saw an object exchanged. The observing officers stated that they had been watching § 87(2)(b) for a while, who was walking up and down the street. He was “out of place” and in a drug prone location. Officer Clases and Sgt. Degree were driving west on § 87(2)(b) when they saw the described individual, identified through the investigation as § 87(2)(b) between § 87(2)(b) and § 87(2)(b). § 87(2)(b) was standing outside of a woman’s lingerie store by himself. He was not doing anything else besides standing there. Officer Clases and Sgt. Degree both saw § 87(2)(b) looked at them, making eye contact with them both, and ran into the store.

Sgt. Degree got out of the car and ran after § 87(2)(b) who was on the opposite side of the street. Officer Clases went down the block, made a U-turn and came back up the street. When he returned, less than a minute later, Sgt. Degree and § 87(2)(b) were standing in front of the store. Sgt. Degree was facing § 87(2)(b) frisking him, and there was a woman, identified through the investigation as § 87(2)(b) screaming in their direction. § 87(2)(b) was standing in front of the door to the store, facing the street. § 87(2)(b) was screaming, “Why the fuck are you in my store? You have no right to go into my store.” Officer Clases did not know what was going on or who § 87(2)(b) was speaking to at the time. Officer Clases did not say, “Shut the fuck up and put your hands in the air” and did not hear Sgt. Degree say this.

Sgt. Degree was still frisking § 87(2)(b) when Officer Clases exited the car and approached them. Sgt. Degree frisked § 87(2)(b) everywhere, from head to toe. Officer Clases did not know whether Sgt. Degree entered any of § 87(2)(b)’s pockets. Officer Clases stated that Sgt. Degree searched § 87(2)(b) but could not describe Sgt. Degree’s actions towards § 87(2)(b). He stated that he was not paying attention to what Sgt. Degree was doing at the time because § 87(2)(b) was screaming. Officer Clases defined a frisk as “frisking someone’s outer clothing to make sure they don’t have something that may harm you” and a search as “searching for something like drugs or whatever was ruled as suspicious.” He specified that a frisk was the patting of the outer clothing and a search was more than the patting of the outer clothing but he reiterated that he was not paying attention to Sgt. Degree’s actions to be able to state whether he was searching or frisking § 87(2)(b). Officer Clases did not see Sgt. Degree turn § 87(2)(b)’s pants’ pockets inside out and remove items from them. Sgt. Degree was looking for drugs due to the information provided by the observing officers. As far as Officer Clases recalls, Sgt. Degree did not find any contraband on § 87(2)(b). Officer Clases did not see Sgt. Degree grab § 87(2)(b) other than when he was frisking him. Officer Clases did not see Sgt. Degree pull down § 87(2)(b)’s pants and place a finger in his rectum. Officer Clases did not see § 87(2)(b) with any part of his body exposed.

Officer Clases asked § 87(2)(b) if she was okay and tried to explain to her what the situation was and why § 87(2)(b) ran into her store. That’s when he realized that she was yelling at Sgt. Degree. Sgt. Degree also tried to explain the situation to § 87(2)(b). Officer Clases did not see Sgt. Degree have any further interaction with § 87(2)(b). Officer Clases learned that § 87(2)(b) worked at the store but did not learn of the relationship between § 87(2)(b) and § 87(2)(b). Officer Clases did not say, “Shut the fuck up bitch” and did not hear Sgt. Degree say this. Officer Clases did not push § 87(2)(b) and did not see another officer do so. Officer Clases did not tell § 87(2)(b) that her store might end up “burned to the ground or robbed” if she made a complaint and did not hear Sgt. Degree state this. Officer Clases did not say that if a complaint was made he would “add a charge” to § 87(2)(b) to make sure that he “never got out of jail again” and did not hear another officer say this.

Sgt. Degree prepared a Stop, Question, and Frisk report for § 87(2)(b) and then they left. Officer Clases and Sgt. Degree were at the scene for approximately three to five minutes. Officer Clases did not recall if there were any other officers at the scene. § 87(2)(b) was compliant

throughout the incident and did not complain of pain. Officer Clases had no interaction with § 87(2)(b)

Subject Officer: OFFICER EDWARD WASHA

- *Officer Edward Washa is a white man who stands 5'10" tall and weighs 220 pounds. He is bald and has hazel eyes. At the time of the incident, he was § 87(2)(b) years old.*
- *On May 16, 2013, Officer Washa worked in plainclothes from 12 p.m. until 8:35 p.m. with Officer Delgado. He was assigned to the SNEU observation post in a non-descriptive unmarked vehicle.*

Memo Book (encl. D13-14)

Officer Washa had no entries in his memo book regarding the incident. At 4:19 p.m., Officer Washa had three under arrest at § 87(2)(b). At 4:30 p.m., he arrived at the stationhouse and at 11:05 p.m., it was the end of his tour.

CCRB Testimony

On November 14, 2013, Officer Washa was interviewed at the CCRB (encl. D15-16).

SNEU observation officers are plainclothes officers in an unmarked vehicle who observe hand to hand drug transactions on the street. Officer Washa did not recall observing any hand to hand transactions on the incident date, around the time and in the area of the occurrence. Normally, on the observation post, Officer Washa would have no interaction with any individuals that he observes. It depends on the situation whether he remains at an incident location to observe any dealings with the individuals and the members of his team.

On May 16, 2013, at approximately 4:30 p.m., Officer Washa was at the stationhouse. Officer Washa had no independent recollection of the incident. A photograph of § 87(2)(b) was shown to Officer Washa but he did not recognize him. A synopsis of the incident was provided to Officer Washa but this did not refresh his recollection of the incident. Officer Washa notified the sergeant multiple times that day of his observations and could not recall this incident. Sgt. Degree was the assigned SNEU sergeant. Sgt. Degree stops and frisks individuals all the time so Officer Washa could not pinpoint this incident. Reviewing the Stop, Question, and Frisk report did not help Officer Washa to recall the incident.

He did not hear the sergeant say, "Shut the fuck up. Put your hands in the air." He did not see the sergeant frisk and search § 87(2)(b). He did not hear Sgt. Degree say, "Shut the fuck up bitch" or see him push a woman on this day, at this location. Officer Washa did not see Sgt. Degree place his finger in § 87(2)(b)'s rectum. He stated that he would have taken action if he saw that.

Witness Officer: OFFICER BELINDA DELGADO

- *Officer Belinda Delgado is a Hispanic woman who stands 5'4" tall and weighs 161 pounds. She has black hair and brown eyes. At the time of the incident, she was § 87(2)(b) years old.*
- *On May 16, 2013, Officer Delgado worked in plainclothes from 12 p.m. until 8:35 p.m. with Officer Washa. She was assigned as a SNEU observation officer in unmarked vehicle # § 87(2)(b)*

Memo Book (encl. D17-19)

Officer Delgado had no memo book entries for this incident. At 4:20 p.m., Officer Delgado had two under arrest at § 87(2)(b). At 4:40 p.m., Officer Delgado arrived at the stationhouse.

CCRB Testimony

On November 20, 2013, Officer Delgado was interviewed at the CCRB (encl. D20-21).

Officer Delgado had no independent recollection of the incident. A synopsis of the incident was given to Officer Delgado; however, she still did not recall the incident. A photograph of § 87(2)(b) was presented to Officer Delgado but she did not recognize him. The Stop, Question, and Frisk report was shown to Officer Delgado; however, she still did not recall the incident.

As a SNEU observation officer, she observes hand-to-hand transactions for US currency and drugs. On the incident date, she did not recall observing an individual making a hand-to-hand transaction with another individual near a woman's clothing store. She did not see the sergeant grab an individual or hear him say, "Shut the fuck up. Put your hands in the air." She did not see the sergeant frisk or search § 87(2)(b). She did not see an officer push a woman or hear an officer say, "Shut the fuck up bitch." She did not see the sergeant pull down § 87(2)(b)'s pants or insert a finger into his rectum. She did not hear Sgt. Degree tell a woman that if she filed a complaint her store might end up "burned to the ground or robbed." She did not hear Sgt. Degree say that if a complaint was filed that he would "add a charge to § 87(2)(b) to make sure he never gets out of jail again." Officer Delgado never learned of these allegations occurring. § 87(2)(b)

§ 87(2)(b)

NYPD Documents

Stop, Question, and Frisk Report (encl. D4-5)

§ 87(2)(b) was stopped by Sgt. Degree on May 16, 2013 at 4:30 p.m. for criminal sale of controlled substance in front of § 87(2)(b). He was observed for four minutes prior to being stopped. The circumstances that led to the stop were actions indicative of engaging in a drug transaction and other reasonable suspicion of criminal activity observed on the SNEU set. The additional factors that led to his stop were that the area has a high incidence of reported offense and the time of day/week corresponding to criminal activity. § 87(2)(b) was frisked for his refusal to comply with officers' directions. No weapons or contraband were found. He was stopped for two minutes but was not arrested or summonsed.

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of December 10, 2013 with regard to the incident, more than three months past the 90-day filing deadline (encl. E1).

§ 87(2)(b)

§ 87(2)(b)

Subject Officers' CCRB History

- Sgt. Steven Degree has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. B4).
- Officer Edgar Clases has been a member of the service for eight years and there are five substantiated CCRB allegations against him (encl. B1-3).
 - In CCRB case #200911584, Officer Clases received a command B discipline for using offensive language against an individual.
 - In CCRB case #201010966, Officer Clases pled guilty to charges of stopping, frisking, and threatening to use force against an individual as well as searching an individual's car and received a penalty of 45 vacation days plus probation.
- Officer Edward Washa has been a member of the service for 17 years and there are no substantiated CCRB allegations against him (encl. B5).

Conclusion

Identification of Subject Officers

§ 87(2)(b) identified Sgt. Degree by name. Sgt. Degree admitted to stopping and frisking § 87(2)(b) and he was the ranking officer at the scene. Therefore, allegations A, B, C, D, G, H, and I are pleaded against him. § 87(2)(b) described the officer who spoke rudely to § 87(2)(b) and used physical force against her as a 5'6" tall, dark-skinned Hispanic man approximately 38-40 years old. Officer Clases is a 5'6" tall, 40-year-old Hispanic man. Sgt. Degree stated that he and Officer Clases were the only officers at the scene. Therefore, allegations E and F are pleaded against Officer Clases.

Investigative Findings and Recommendations

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation A-Abuse: Sgt. Steven Degree stopped § 87(2)(b)

Allegation C-Abuse: Sgt. Steven Degree frisked § 87(2)(b)

Allegation D-Abuse: Sgt. Steven Degree searched § 87(2)(b)

It is undisputed that Sgt. Degree stopped, frisked, and searched § 87(2)(b). § 87(2)(b) alleged that Sgt. Degree grabbed him and asked him what he was doing. Sgt. Degree told him, "Shut the fuck up and put your hands in the air" before frisking and searching § 87(2)(b) turning his pants' pockets inside out.

Sgt. Degree stated that his observation officers observed a hand to hand transaction. Officer Washa put the description of both the buyer and the seller over the point to point radio and stated that he saw a man give a small object to another man. He did not state whether he saw an exchange of money or anything further. Given this information, Sgt. Degree grabbed § 87(2)(b) who fit one of the descriptions, by his left wrist and asked him to come out of the store. Sgt. Degree noticed a visible bulge, six to seven inches long, in § 87(2)(b)'s left pants' pocket. Sgt.

Degree was not sure what the bulge was when he saw it and made no mention of it in the Stop, Question, and Frisk report. Sgt. Degree frisked that pocket and felt a hard object. He was not sure what the object was when he felt it. Sgt. Degree did not frisk § 87(2)(b) anywhere else on his body. He entered the pocket and found a long sharp nail. Sgt. Degree did not enter any other pockets. Sgt. Degree stated that he frisked § 87(2)(b) for his safety due to the fact that it took him 20 seconds to exit the store after being asked.

Officer Clases stated that § 87(2)(b) looked at them, making eye contact with them both, and ran into the store. Sgt. Degree got out of the car and ran after § 87(2)(b). When Officer Clases returned to the scene, Sgt. Degree was frisking § 87(2)(b) from head to toe. Officer Clases did not know whether Sgt. Degree entered any of § 87(2)(b)'s pockets.

An officer may stop and detain a person if he has a reasonable suspicion that the person has committed, is committing, or is about to commit a crime. Innocuous behavior alone will not generate reasonable suspicion that a crime is at hand. People v. De Bour, 40 N.Y.2d 210 (1976)(encl. A1-11). An exchange between two individuals, without an observed transfer of currency or an object resembling an illegal substance, is not sufficient to provide reasonable suspicion of a drug transaction. People v. Thompson, 791 N.Y.S.2d 872 (2nd Dept. 2004)(encl. A12-13).

An officer may frisk a person when he has reasonable suspicion that the person is armed and dangerous. Arizona v. Johnson, 555 U.S. 323 (2009)(encl. A14-21). A frisk may not be predicated merely upon the observation of an indefinable bulge. People v. Marine, 536 N.Y.S.2d 425 (1989 -1st Dept.)(encl. A22-24). Where an unjustified frisk reveals the presence of a hard object, no search for weapons is warranted. Matter of Darryl C., 947 N.Y. 2d 483 (1st Dept. 2012) (encl. A30-39).

§ 87(2)(g)

§ 87(2)(g)

Allegation B-Discourtesy: Sgt. Steven Degree spoke rudely to § 87(2)(b)

Allegation E-Discourtesy: Officer Edgar Clases spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Degree told him, "Shut the fuck up and put your hands in the air" and Officer Clases said to § 87(2)(b) "Shut the fuck up, bitch."

Both Sgt. Degree and Officer Clases stated that they did not say either statement and did not hear another officer make either statement.

§ 87(2)(g)

Allegation F-Force: Officer Edgar Clases used physical force against § 87(2)(b)

§ 87(2)(b) alleged that Officer Clases pushed § 87(2)(b)

Officer Clases stated that he had no interaction with § 87(2)(b) Sgt. Degree did not see Officer Clases push § 87(2)(b)

§ 87(2)(g)

Allegation G-Abuse: Sgt. Steven Degree threatened to damage § 87(2)(b) property.

Allegation H: Abuse: Sgt. Steven Degree threatened to arrest § 87(2)(b)

§ 87(2)(b) alleged that Sgt. Degree stated that if § 87(2)(b) filed a complaint that her “store might end up burned to the ground or robbed.” Additionally, he stated that if a complaint was filed that he would “add a charge” to § 87(2)(b) that would make sure he “never gets out of jail again.”

Sgt. Degree denied making these statements and Officer Clases stated that he did not hear Sgt. Degree make these statements.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: 5

Investigator: _____

	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date